

# Exhibit 11

# FINANCIAL OVERSIGHT & MANAGEMENT BOARD FOR PUERTO RICO



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## **BY ELECTRONIC MAIL**

June 24, 2021

The Honorable Pedro Pierluisi Urrutia  
Governor of Puerto Rico

The Honorable José Luis Dalmau  
President of the Senate of Puerto Rico

The Honorable Rafael Hernández  
Speaker of the House of Representatives of Puerto Rico

Dear Governor Pierluisi Urrutia, President Dalmau, and Speaker Hernández:

The Oversight Board has become aware of House Bill 3-2021 (“HB 3” or the “Bill”) which, among other things, purports to repeal certain portions of Act 4-2017, the Labor Transformation and Flexibility Act (the “LTFA”), to reestablish many of the burdensome labor restrictions that existed prior to passage of the LTFA, as well as to create new labor restrictions.<sup>1</sup> As set forth below, the Oversight Board is concerned that HB 3 is inconsistent with the Commonwealth’s 2021 Certified Fiscal Plan (the “Fiscal Plan”), and specifically the Fiscal Plan’s human capital and welfare reforms.

The LTFA was an initial step in the process of reforming Puerto Rico’s labor laws to meet better “the demands of the global markets” to “promote economic development and become more competitive.”<sup>2</sup> The LTFA was designed to “attract foreign investment, help local business owners to create jobs, and allow thousands of Puerto Ricans to enter the workforce.”<sup>3</sup> The LTFA committed to “work[ing] hand in hand with the [Oversight Board] to push Puerto Rico forward.” Specifically, through the LTFA, the Government sought to advance the objectives of: (i) “restoring economic growth and creating a more competitive economy,” and (ii) “restructuring the

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<sup>1</sup> The Oversight Board is aware the Senate is considering the Bill and amendments to the Bill have been proposed. Although we have not seen the proposed amendments, we understand they do not rectify the concerns raised in this letter.

<sup>2</sup> Act 4-2017 at Statement of Motives.

<sup>3</sup> *Id.*

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Government to achieve balanced budgets, while preserving essential services for the People of Puerto Rico.”<sup>4</sup> Although the LTFA did not go far enough, the Fiscal Plan recognizes it “did to some extent ease some restrictions on labor hiring.”<sup>5</sup>

HB 3 seeks to undo the progress achieved by the LTFA, and in so doing would have a deleterious impact on private sector employment and inflict harmful financial consequences on the Commonwealth. Indeed, the Fiscal Plan states the repeal of the LTFA “would discourage new hiring and reduce labor market flexibility, thus limiting the effectiveness of the [earned income tax credit] expansion in promoting labor force participation, economic growth, and the revenues associated with that growth.”<sup>6</sup> For this reason, the Fiscal Plan makes clear “the Government must refrain from repealing Act 4-2017 or enacting new legislation that negatively impacts labor market flexibility.”<sup>7</sup>

Yet that is precisely what HB 3 seeks to do. Among other things, the Bill:

- Reverts to the pre-LTFA definition of overtime to require overtime compensation for time worked in excess of eight (8) hours in any rolling 24-hour period, as opposed to any calendar day;
- Reverts to the pre-LFTA probationary period during which employers are allowed to terminate employees at will from nine (9) months (twelve (12) months for exempt employees), back to three (3) months and requires written notice of the probationary period;
- Reverts the mandatory Christmas bonus “hours worked” requirement from 1,350 hours to 700 hours within the twelve (12) month period between October 1 and September 30 of any year, and increases the percent of salary requirements for the bonus from two percent (2%) to either three percent (3%) or six percent (6%);
- Reverts the overtime pay rate for the one (1) day of rest required for every six (6) days worked to up to 2X the regular pay rate if work is performed on the day of rest;
- Requires a more progressive structure for indemnity payments adjusted by length of service;
- Increases vacation and sick leave accrual rates;
- Extends various statutes of limitations for employment-related causes of action; and
- Modifies and limits the definitions of just cause and constructive discharge and provides severance for employees terminated without just cause pursuant to Law 80 of 1976.

If the Bill is enacted, these modifications would discourage new hiring and reduce labor market flexibility, thus impacting Puerto Rico’s dismal labor force participation rate, stunting economic growth and market competition, depriving the Commonwealth of the revenues associated with

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<sup>4</sup> *Id.*

<sup>5</sup> 2021 Commonwealth Fiscal Plan at 79.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

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such revenue growth, and increasing the Commonwealth's public assistance burden. The Commonwealth cannot afford to jeopardize or discourage private sector employment nor can it bear any revenue losses or costs that would result from implementation of the Bill.

Based on its preliminary review of the fiscal impact of the Bill, the Oversight Board has determined the Bill, if enacted, would be significantly inconsistent with the Fiscal Plan in violation of PROMESA section 204(a), and would impair and defeat the purposes of PROMESA in violation of section 108(a)(2). Indeed, the Bill seeks to repeal labor reforms the Fiscal Plan expressly directs not be undone. It thereby discourages new investment by making it less attractive and more burdensome. This harms the economy today and future growth. Accordingly, the Bill must not be enacted. PROMESA section 108(a)(2) bars its enactment and implementation.

We encourage you to engage with us regarding the Bill and any other legislation you believe may impact the Commonwealth's labor laws, expenditures, revenues, compliance with any Fiscal Plan, or the purposes of PROMESA.

Sincerely,

*Natalie A. Jaresko*  
Natalie A. Jaresko

CC. Mr. Omar Marrero Diaz